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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,937	10/01/2003	Scott W. Keller	36400.63US1	7840

25541 7590 07/12/2005  
NEAL, GERBER, & EISENBERG  
SUITE 2200  
2 NORTH LASALLE STREET  
CHICAGO, IL 60602

EXAMINER

PETRAVICK, MEREDITH C

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/676,937	<b>Applicant(s)</b> KELLER ET AL.	
	<b>Examiner</b> Meredith C. Petravick	<b>Art Unit</b> 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 April 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 10-12, 15-17, 20-46 is/are pending in the application.  
4a) Of the above claim(s) 25-27, 29, 36, 37, 39 and 44-46 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 40-43 is/are allowed.
- 6) ☒ Claim(s) 1-4, 16-20 and 30-33 is/are rejected.
- 7) ☒ Claim(s) 5, 10-12, 15, 21-24, 28, 34, 35, 38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/22/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

*MC*

*RA*

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 16-17, 20 and 30-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Welscher et al. 5,436,419, cited by applicant.

Welscher discloses a hydraulic drive device including:

- a casing (34, 12)
- a hydraulic pump (90) in the casing
- a control arm (36) indirectly coupled to the hydraulic pump to control the hydraulic pump fluid flow
- a first switch (in NSS circuit not switch 58) cooperating with the control arm and having an open state and a closed state (Col. 2, lines 7-14)
- a second switch (in BAS circuit not switch 58) cooperating with the control arm and having an open state and a closed state (Co. 4, lines 15-18)

The state of the first switch is indicative of the control arm assuming a first position (Col. 2, lines 7-14), and the state of the second switch is indicative of the control arm assuming a second position (Col. 4, lines 15-18).

Regarding claims 2-3 and 31, the first position of the control arm corresponds to hydraulic drive device driving in a forward direction and the first switch is in the open state (Co. 2, lines 7-14).

Regarding claims 4 and 32, the second position of the control arm corresponds to the hydraulic drive device driving in the reverse direction (Col. 4, lines 15-18).

Regarding claims 16-17, the first and second switches are mechanically actuated by ball (62).

Regarding claims 20 and 33, a prime mover (the engine) is coupled to the hydraulic drive device.

#### ***Allowable Subject Matter***

3. Claims 40-43 are allowed.

4. Claims 5, 10-12, 15, 21-24, 28, 34-35 and 38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

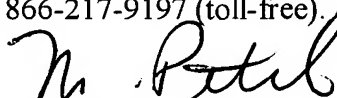
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meredith C. Petravick whose telephone number is 571-272-6995. The examiner can normally be reached on M-T 8:00 a.m.- 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Meredith C Petravick  
Primary Examiner  
Art Unit 3671

July 8, 2005